

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

METAVANTE CORPORATION,

Plaintiff and Counterclaim-Defendant,

v.

Case No. 05-CV-1221

EMIGRANT SAVINGS BANK,

Defendant and Counterclaim-Plaintiff.

**ORDER REGARDING DEPOSIT OF CASH TO SECURE
JUDGMENT AND STAY ENFORCEMENT OF JUDGMENT**

On November 27, 2009, the Court granted Metavante's petition for attorneys' fees and costs and entered Judgment on same, Docket #598 (the "Judgment"). On December 10, 2009, Emigrant filed a Notice of Appeal of the Judgment, Docket #600.

Pursuant to Civil Local Rules 67.3 and 67.4 and upon the stipulation of the parties,

IT IS HEREBY ORDERED:

1. Emigrant shall make a cash deposit into the registry of the Court in the sum of \$11,500,000.00 (eleven million five hundred thousand dollars and zero cents) within seven (7) business days of the entry of this Order, in lieu and instead of using the supersedeas bond procedure set forth in Rule 62(d) of the Federal Rules of Civil Procedure. Such deposited funds, and any interest earned thereon, shall, upon receipt, become the property of this Court, subject to the Court's obligations to pay the funds to Metavante, or return the funds to Emigrant, in accordance with the

terms of this Order. Except as set forth in this Order, Emigrant's deposit of funds in the Court's registry shall be absolute and irrevocable, and Emigrant shall relinquish all right, title and interest in such funds, including any interest earned on such funds.

2. Any proceedings to enforce the appealed Judgment are stayed pending the determination of Emigrant's appeal from such Judgment, which appeal the Court of Appeals has docketed as Appeal No. 09-3996 and consolidated with Appeal No. 09-3007. Metavante may, for good cause, move this Court for relief from such stay, including modifying or vacating such stay, if: 1) subsequent events render such deposited funds, and any interest earned thereon, to be less than adequate security and protection for Metavante to collect the Judgment, including interest, in full, provided that Emigrant shall have the right to deposit additional funds to render the deposit adequate security and protection; and/or 2) Emigrant's appeal is dismissed, abandoned, and/or stayed.

3. During the appeal, the Clerk of this Court shall redeposit the sum received from Emigrant in an interest-bearing account, and the interest generated by the deposit will be added to the original deposit and serve as additional security for Metavante on the Judgment. Irrespective of the amount of interest earned by the deposited funds, Metavante shall only be entitled to payment of interest at the statutory rate set forth in 28 U.S.C. § 1961 for post-judgment interest on all amounts awarded on the Judgment, payable from the date each such award was, or is, entered by a Court.

4. Metavante may, following the time the appeal shall be dismissed or the appealed Judgment affirmed, apply to this Court to collect any moneys owed by Emigrant to Metavante under the terms of the appealed Judgment, as may be modified on appeal, from the amount deposited with the Court by Emigrant, including interest earned on such amount. Application by Metavante for collection of the funds held by the Court may be accomplished by means of a motion, with notice served on the Clerk of this Court. Any funds remaining, after paying out all moneys owed by Emigrant to Metavante under the terms of the appealed Judgment, as may be modified on appeal, shall be paid to Emigrant.

5. If the appealed Judgment (a) is reversed and set aside completely, or (b) vacated and remanded for a new trial, then the sums originally deposited with the Court by Emigrant, together with any interest earned on such funds, shall be paid to Emigrant on application to this Court after all proceedings in Appeal No. 09-3996 have concluded and the mandate of the court of appeals has issued. In such case, collection by Emigrant of the funds held by the Court may be accomplished by means of a motion, with notice served on the Clerk of this Court, and Metavante may respond to and oppose such motion. If Metavante files a petition for writ of certiorari from a decision in Appeal No. 09-3996, and on such appeal the Judgment is affirmed or any awards are made to Metavante on the Judgment, then Emigrant shall pay Metavante the full amount of any awards, including interest earned on such amount,

within seven (7) business days of the date the Judgment is affirmed or the awards are made.

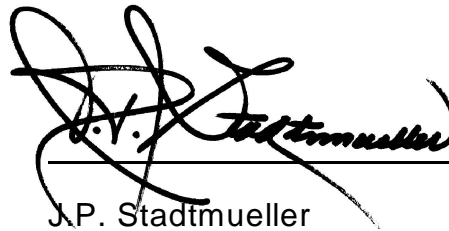
6. If, following Emigrant's appeal, the case is remanded to this Court for further proceedings (other than a new trial) and/or a supplemental opinion, the deposited funds held by the Court, and any interest earned thereon, will continue to be held by the Court to secure any awards to Metavante on the Judgment until such awards become final and un-appealable.

7. Nothing in this Order limits or is intended to limit the amount of any awards to Metavante on the Judgment, or the amount of money necessary to secure payment of such awards by Emigrant, once such awards become final and unappealable.

8. Nothing in this Order applies to or affects the separate final judgment entered by this Court on June 15, 2009, Docket #550, and the supersedeas bond that Emigrant has posted and filed in connection with that judgment, Docket #596.

Dated at Milwaukee, Wisconsin, this 13th day of January, 2010.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line. The signature is stylized and cursive.

J.P. Stadtmueller
U.S. District Judge